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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/624,098 07/24/00 TENUTA

M 2527-1A

EXAMINER

HM12/0926

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AIR MAIL

NAFF, D	
ART UNIT	PAPER NUMBER

1651
DATE MAILED:

09/26/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/04098

Applicant(s)

Tanuta et al

Examiner

K. A. H.

Group Art Unit

1657

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Prior Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 7/24/00
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☐ Claim(s) is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☒ Claim(s) 1-19 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Claims in the application are 1-19.

The inventorship has been corrected as requested by the request filed 2/2/01.

Restriction to one of the following inventions is required under

5 35 U.S.C. 121:

I. Claims 1-15, drawn to a method of controlling pathogens in a soil by adding a nitrogen-containing material and a pH reducing agent to reduce the soil pH below 5, classified in class 424, subclass 543.

10 II. Claim 16, drawn to a method of determining an effective method for control of soil pathogens, classified in class 435, subclass 29.

15 III. Claims 17-19, drawn to a method of controlling pathogens in soil having an organic carbon content less than 1.7% by adding a nitrogen-containing material and a pH raising agent to raise the soil pH above 8.5, classified in class 514, subclass 588.

The inventions are distinct, each from the other because:

The method of the invention of each group requires different steps based on a different inventive concept and mechanism of operation, and
20 the method of each group can be carried out in the absence of the method of any other group. The method of Group I does not require steps of determining an effective method for control of soil pathogens as required by the method of Group II, and controlling pathogens in soil having less than 1.7% carbon by raising the pH to above 8.5 as in the method of Group
25 III. Conversely, the method of Group III does not require lowering the pH as in the method of Group I, and determining an effective method for

control of soil pathogens as required by the method of Group II. The method of Group II does not require controlling pathogens in soil by the steps of the methods of Groups I and III.

Because these inventions are distinct for the reasons given above
5 and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even
10 though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any
15 amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is (703) 308-0520. The examiner can normally be reached on
20 Monday-Thursday and every other Friday from about 8:30 AM to about 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, a message can be left on voice mail.

If attempts to reach the examiner by telephone are unsuccessful, the
25 examiner's supervisor, Mike Wityshyn, can be reached at telephone number (703) 308-4743.

Application Number: 09/624,098
Art Unit: 1651


Page 4

The fax phone number is (703) 305-3014 or 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

5

DMN
10 9/25/01


DAVID M. NAFF
PRIMARY EXAMINER
ART UNIT 1651